

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,  
Plaintiff,  
v.  
R. COLEMAN,  
Defendant.

Case No. 1:20-cv-00759-DAD-SKO (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DISMISS ACTION FOR FAILURE TO  
PROSECUTE**

14-DAY DEADLINE

On May 10, 2021, the Court issued an order directing the parties, within 40 days, to file a notice indicating whether they agree to participate in an early settlement conference. (Doc. 13.) The parties failed to file the notice within the time provided. Therefore, On July 2, 2021, the Court issued an order to show cause, within 21 days, why sanctions should not be imposed for failure to comply with the Court's order. (Doc. 17.) Defendant filed her notice on that same date. (Doc. 18.) Although more than 21 days have passed, Plaintiff has failed to file his notice or otherwise respond to the order to show cause.

The Local Rules, corresponding with Federal Rule of Civil Procedure 11, provide that "[f]ailure of counsel or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court." Local Rule 110. "District courts have inherent power to control their dockets" and, in exercising that power, may impose sanctions, including dismissal of an action. *Thompson v. Housing Auth.*,

1 *City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a  
2 party's failure to prosecute an action, obey a court order, or comply with local rules. *See, e.g.*,  
3 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a  
4 court order); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987) (dismissal for  
5 failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)  
6 (dismissal for failure to prosecute and to comply with local rules).

7 Based on Plaintiff's failure to respond to the Court's orders, it appears that Plaintiff has  
8 abandoned this action. Whether he has done so intentionally or mistakenly is inconsequential. It is  
9 Plaintiff's responsibility to comply with the Court's orders. The Court declines to expend its  
10 limited resources on a case that Plaintiff has chosen to ignore.

11 Accordingly, the Court RECOMMENDS that this action be DISMISSED for Plaintiff's  
12 failure to prosecute. These Findings and Recommendations will be submitted to the United States  
13 District Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date  
14 of service of these Findings and Recommendations, Plaintiff may file written objections with the  
15 Court. The document should be captioned, "Objections to Magistrate Judge's Findings and  
16 Recommendations." Plaintiff's failure to file objections within the specified time may result in  
17 waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing  
18 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19  
20 IT IS SO ORDERED.

21 Dated: **August 12, 2021**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE